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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,939	11/03/2003	Hiroyuki Ishida	Q77928	5053

23373 7590 10/31/2006

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EXAMINER

LEE, Y MY QUACH

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/698,939	ISHIDA, HIROYUKI	
	Examiner	Art Unit	
	Lee Y Quach	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-11, 15 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-11, 15, 16, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed August 28, 2006 have been fully considered but they are not persuasive. Applicant requested that the objection to the drawings with respect to claims 3 to 5, 12 and 16 should be withdrawn in view of an optical axis of the lens device is shown in drawing figure 4 and an optical axis of the light emitting device is shown in the corrected drawing figure 1. This is not found persuasive. Both of drawing figure 4 and corrected drawing figure 1 show an optical axis of a lens device of a single semiconductor light emitting element of a semiconductor light emitting device while claims 3 to 5 and 16 are directed to a semiconductor light emitting device having at least two semiconductor light emitting elements. Specifically, 37 C.F.R. 1.83(a) requires that every feature of the invention specified in the claims must be shown in the drawings. Since the semiconductor light emitting device of claims 3 to 5 and 16 are comprised of at least two semiconductor light emitting elements, an optical axis of this light emitting device must be shown in the drawings as required. Also, Applicant stated that, on page 19 of the amendment of August 26, 2006, a skilled in the artisan would also discern that the recited "optical axis of said device lens" does not necessarily correspond to "a single optical axis of the semiconductor light emitting device", although it may correspond thereto. This is why it is necessary to show all the optical axis of the semiconductor light emitting device comprising at least two light emitting elements, the optical axis of the device lens and the optical axis of the lens of the optical system, as claimed, in the drawings so that one skilled artisan can be able to distinguish them. Accordingly, objection to the drawings is maintained and follows. The indicated allowability of claim 20 is withdrawn in view of the newly discovered reference to Ruthenberg. Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Ruthenberg.

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Ruthenberg shows an outer lens (46), a light emitting element comprising a base member (26), a semiconductor light emitting device, on the base member, comprising a first semiconductor light emitting element (24a) for forming a first illuminating beam and a second semiconductor light emitting element (24b) for forming a second illuminating beam, a device lens (22) covering the first and second light emitting elements, and the first semiconductor light emitting element and the second semiconductor light emitting element offset from an optical axis of the device lens.


4. Claims 3 to 11, 15, 16, 18 and 19 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 571-272-2373. The examiner can normally be reached on Tuesday and Thursday from 8:30 am to 4:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is 571-272-2815.

Y. Q.
October 19, 2006


Y Quach Lee
Primary Examiner
Art Unit 2875